

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Valley Cable TV, Inc.
POB 508
602 College Street
Fort Valley, Georgia

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File Number EB-02-AT-275
NAL/Acct. No. 200232480017
FRN 0006-1529-20

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 3, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Valley Cable TV, Inc. ("Valley") willfully and repeatedly violated Section 76.605(a)(12) of the Commission's Rules ("Rules")¹ and willfully violated Section 76.611(a)(1) of the Rules² relating to cable television signal leakage. We conclude that Valley Cable TV, Inc. is apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

II. BACKGROUND

2. On July 23 and 25, 2002, an agent from the FCC Enforcement Bureau's Atlanta Field Office conducted a cable television signal leakage inspection of Valley's cable system located in Fort Valley, Georgia. The agent found that, at thirty-one locations, cable signal leakage on the frequency 121.2625 MHz significantly exceeded 20 microvolts per meter ($\mu\text{V}/\text{m}$) at a distance of at least three meters from each leakage, in violation of Section 76.605(a)(12) of the Rules. The measured leaks ranged from 165 $\mu\text{V}/\text{m}$ to 983 $\mu\text{V}/\text{m}$. Based on these measurements, the agent calculated the system's cumulative leakage index ("CLI") at a value of 68.3, exceeding the allowed cumulative signal leakage performance criteria of 64, in violation of Section 76.611(a)(1) of the Rules.³ (See Attachment A.)

III. DISCUSSION

¹ 47 C.F.R. § 76.605(a)(12).

² 47 C.F.R. § 76.611(a)(1).

³ The calculated CLI included only leaks greater than 50 $\mu\text{V}/\text{m}$, included leaks found in only 15 miles or 27% of the system inspected, and assumed no leaks in the 73% of the system not checked.

3. Section 76.605(a)(12) of the Rules requires cable operators to limit signal leakage in the frequency band from 54 MHz up to and including 216 MHz to 20 μ V/m at a distance of 3 meters. On July 23 and 25, 2002, Valley exceeded this limit at thirty-one locations on its system in Fort Valley, Georgia. Section 76.611(a)(1) of the Rules requires cable operators to limit the CLI to a value at or below 64. On July 25, 2002, Valley's cable system in Fort Valley, Georgia operated with a CLI value of 68.3.

4. Based on the evidence before us, we find that on July 23 and 25, 2002, Valley Cable TV, Inc. willfully⁴ and repeatedly⁵ violated Section 76.605(a)(12) of the Rules, and on July 25, 2002, willfully violated Section 76.611(a)(1) of the Rules.

5. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for the violations cited in this notice is \$8,000 (violation of rules relating to distress and safety frequencies).⁶ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁷ Considering the entire record and the factors listed above, this case warrants an \$8,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ Valley Cable TV, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willful and repeated violation of Section 76.605(a)(12) of the Rules and willful violation of Section 76.611(a)(1) of the Rules.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Valley Cable TV, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ The term "repeated" means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

⁶ 47 C.F.R. § 1.80(b)(4).

⁷ 47 U.S.C. § 503 (b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment MUST INCLUDE the NAL/Acct. No. and FRN referenced in the letterhead above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by regular mail and Certified Mail Return Receipt Requested to Valley Cable TV, Inc., at POB 508, 602 College Street, Fort Valley, GA 31030.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

¹⁰ See 47 C.F.R. § 1.1914.

Valley Cable TV, Inc.

NAL Acct. No. 200232480017

ATTACHMENT A

FIELD STRENGTH MEASUREMENTS OF VALLEY CABLE TV, INC., FORT VALLEY, GA

MEASUREMENT DATES: JULY 23 & 25, 2002

FREQUENCY: 121.2625 MHZ

	Measurement Location	Leakage Field Strength, $\mu\text{V/m}$
1	108 Peachtree Ext.	179
2	Hampton St. @ Butler St.	165
3	320 Hiley St.	193
4	Burnett St. @ Hiley St.	214
5	E. Church St. @ Hampton St.	229
6	616 Chamblee Dr.	953
7	418 Chamblee Dr.	591
8	Forrest Dr. @ Orange St.	621
9	405 Miller St.	345
10	527 Walden St.	252
11	Montrose St. @ Elberta St.	185
12	W. Church St. @ Everett Square	606
13	106 Knoxville St.	314
14	Knoxville St. @ Belle St.	224
15	518 Orange St.	652
16	607 Courtland St.	329
17	Across from 402-A Green St.	786
18	Across from 503 S. Camella Blvd.	377
19	5530 Hwy 341 South	273
20	Hwy 341 South @ Lavender St.	576
21	Pole @ 208 Lavender St.	194
22	604 Hwy 341 South	291
23	Pole @ 209 Oak St.	231
24	207 Calhoun St.	182
25	327 Hwy 341 South	313
26	201 Troutman Ave.	285
27	505 Peachtree St.	983
28	Edward St. @ Spruce St.	203
29	312 Spruce St.	280
30	Pole #13 @ 505 Preston St.	606
31	Beech St. @ Spruce St.	835